

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joseph Mouallem	Team: Team # 8	CCRB Case #: 200107725	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 11/18/2001 11:55 PM	Location of Incident: § 87(2)(b) Brooklyn, NY	Precinct: 73	18 Mo. SOL 5/18/2003	EO SOL 5/18/2003	
Date/Time CV Reported Wed, 11/21/2001 12:44 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/30/2001 11:26 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Ischaler Grant	03725	897595	PBBN SC
2. POM Steven Sneider	00842	920853	PBBN SC
3. Officers			PBBN SC

Officer(s)	Allegation	Investigator Recommendation
A.SGT Ischaler Grant	Abuse: Sgt. Ischaler Grant drew his gun.	§ 87(2)(b)
B.POM Steven Sneider	Abuse: PO Steven Sneider drew his gun.	§ 87(2)(b)
C. Officers	Abuse: Officers damaged the property of § 87(2)(b)	§ 87(2)(b)
D.SGT Ischaler Grant	Abuse: Sgt. Ischaler Grant entered § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
E.SGT Ischaler Grant	Abuse: Sgt. Ischaler Grant stopped and questioned § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
F.SGT Ischaler Grant	Abuse: Sgt. Ischaler Grant detained § 87(2)(b)	§ 87(2)(b)
G.SGT Ischaler Grant	Abuse: Sgt. Ischaler Grant searched § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
H.SGT Ischaler Grant	Discourtesy: Sgt. Ischaler Grant spoke rudely to § 87(2)(b)	§ 87(2)(b)
I.SGT Ischaler Grant	Discourtesy: Sgt. Ischaler Grant spoke rudely to § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
J.SGT Ischaler Grant	Abuse: Sgt. Ischaler Grant threatened to arrest § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)

Synopsis

On 11/18/01, at approximately 11:55pm, § 87(2)(b) walked two friends to the Broadway Junction train station, and was walking back home on Fulton. He bought a pack of cookies at the bodega on the corner of Fulton and Eastern Parkway and continued walking west on Fulton St. Sgt. Grant and PO Sneider of Brooklyn North Street Crime drove by in an unmarked Chevrolet Lumina. § 87(2)(b) alleges the following. Sgt. Grant called over to § 87(2)(b) who thought he was getting robbed, and began to run to his apartment building, about ten paces away. The officers followed him, exited their vehicles with their guns drawn (Allegations A and B) and ran after him. He entered into the vestibule of the building when the front door crashed down on top of him (Allegation C). The officers followed him into his apartment (Allegation D). They secured physical control of him (Allegation E) and of his son, § 87(2)(b) (Allegation F). Inside, Sgt. Grant searched the apartment for an alleged gun (Allegation G). He spoke rudely to § 87(2)(b) and to § 87(2)(b) (Allegations H and I). He also threatened to arrest § 87(2)(b) and § 87(2)(b) (Allegation J).

According to Sgt. Grant, § 87(2)(b) resembled § 87(2)(b) one of the 73rd Precinct's Most Wanted at the time. In addition, after § 87(2)(b) rejected the sergeant's attempt to speak with him, as he was running he allegedly pulled out what seemed to be a black handgun from his waist area. According to the officers, § 87(2)(b) himself knocked down the building's front door. § 87(2)(g)

Summary of Complaint

On 11/20/01, § 87(2)(b) went to the 73rd Precinct and made the following complaint, which was forwarded to IAB, resulting in log #01-23558 (enc. 4a). On 11/18/01, at approximately 11:55pm, two unidentified males in plainclothes (one black and one Hispanic) with shields around their necks broke down the front door of the building that her son § 87(2)(b) lives in. They then proceeded to break down his apartment door. Once inside, they handcuffed § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on 12/06/01 (enc. 7a-e), and made the following complaint. On 11/18/01, § 87(2)(b) left his apartment at about 11:20pm to walk his friend § 87(2)(b) and her friend § 87(2)(b) to the Broadway Junction train station. He waited about 15 or 20 minutes with them, and then they got on a train. § 87(2)(b) was walking on the north side of Fulton back home, smoking a cigarette. (He was wearing a black leather ¾ length coat, open; black ski hat; black jeans; white sweatshirt.) At Eastern Parkway, he crossed Fulton to the south side, then crossed Eastern Parkway and entered the corner store on southwest corner of Fulton and Eastern Parkway at approximately 11:45. The husband and wife who run the store ('Mami and Papi') were there. He bought cookies and laid 50 cents on the counter. § 87(2)(b) left the corner store and walked down Fulton about 4 doors down. Perhaps two cars came by, and then two males in a vehicle with tinted windows (wearing black ski hats and dark clothing) drove about 25 or 30 miles an hour (eastbound) toward him. They seemed to be robbers. They slowed down a little when they got closer to him, to about 15 miles an hour and looked at him. They drove past him, and perhaps two more cars drove by. § 87(2)(b) crossed the street to the other side and, about 12 feet from his apartment building door, he noticed car headlights behind him, and the same car pulled up to him about five yards away from him. The individual in the passenger seat, a black male, 5'10", 180lbs, early 30s, later identified as Sgt. Ischaler Grant, said to him, "Hey you, come here." Thinking they were robbers, he walked to his front door. He entered the first door (which was unlocked). Now in the vestibule, he looked over his shoulder and saw that the two individuals were exiting the car with guns drawn (Allegations A and B), running towards the building door. He took his keys out to open the second door (pack of cookies in one hand, keys in the other) and the first door collapsed on him (Allegations C). He pushed it back off of himself and unlocked the door. He opened the second door and ran up the stairs to his apartment door. (He does not know if the second door

locked behind him or not, but the first door was broken down in a way that it must have impeded the officers' progress.) He did not hear the officers identify themselves in any way, nor say anything at all. Nervous, § 87(2)(b) could not find the key to his apartment. He knew they were coming up the stairs, so he "pushed open" his apartment door with his shoulder, off of its hinges. He ran into the apartment and, running down the hallway toward the bedroom, he screamed to his son § 87(2)(b) "Wake up, § 87(2)(b) [nickname], wake up, call the police. I'm being robbed." § 87(2)(b) ran into the bedroom, his son became fully awake, and asked what the matter was; he told him that he was being robbed. § 87(2)(b) closed the bedroom door. His son did not call 911.

§ 87(2)(b) then heard, "Come out. Police." He answered, "Police? Okay. But why didn't you tell me you were police the first time?" He came out with his hands up (one at a time, slowly) and said, "Do not make a mistake and shoot me, I'm coming out with my hands up. I don't want this to be an accident." He saw the two officers with their guns drawn (9mm, maybe), Sgt. Grant in front of the second officer, a white male later identified as PO Sneider (Allegation D). They had their badges around their necks. He put his hands against a wall, and Sgt. Grant grabbed him while PO Sneider watched § 87(2)(b) with his gun drawn. Sgt. Grant pulled § 87(2)(b) into the kitchen, rear handcuffed him, and placed him on the floor, his back against the stove and sink (Allegation E). § 87(2)(b) was not frisked. Sgt. Grant asked him whether there was anyone else in the house; § 87(2)(b) answered that his son was. "Tell your son to come out." § 87(2)(b) told his son to come out with his hands up. His son came out of the bedroom, and was placed on the kitchen floor in front of § 87(2)(b) though he was not handcuffed (Allegation F). Sgt. Grant went down the hallway and searched the apartment—first the bedroom, then the living room—where, § 87(2)(b) could hear, Sgt. Grant was looking around and moving things (Allegation G). § 87(2)(b) asked PO Sneider what the reason he was called to the car in the first place was, and why the officers had not identified themselves at the beginning. PO Sneider responded, "We'll let you know in a few minutes." § 87(2)(b) complained that he had back problems, and that the handcuffs were too tight. Sgt. Grant came back to the kitchen and asked § 87(2)(b) "Where's the gun?" § 87(2)(b) answered that he does not have a gun. § 87(2)(b) asked again about why they had called him to the car. Sgt. Grant left again, searched for a while, and returned. He asked § 87(2)(b) if he lived in the apartment. § 87(2)(b) replied in the affirmative. (At some point § 87(2)(b) was asked for ID, and produced it.) § 87(2)(b) asked PO Sneider again why they had not identified themselves when they asked him to come over to the car, as he would have complied. PO Sneider repeated, "We'll let you know." Sgt. Grant returned and told § 87(2)(b) that he would bring ten police officers if necessary, and dogs, since he knew there was a gun in the apartment. Sgt. Grant, using profanity, added that he should give up the gun, since if they found it he and his son would be going to jail (Allegations H and J). § 87(2)(b) repeated that he had only had a pack of cookies and his keys. He told the officers, "Guarantee you, if I had a gun, you would have shot me, or vice versa."

Sgt. Grant went back to the bedroom. He called § 87(2)(b)'s son to the room. § 87(2)(b) asked why his son was called in. Sgt. Grant told him again to 'shut the fuck up.' They were both away for three or four minutes. § 87(2)(b) states that his son later told him that Sgt. Grant had asked him, "Where'd your father hide the fucking gun? If we find the gun, both of your asses are going to jail" (Allegations I and J). When his son returned to the kitchen, § 87(2)(b) asked him in front of the officers what Sgt. Grant had said to him. Sgt. Grant followed the son back into the kitchen and screamed at § 87(2)(b) to "shut the fuck up." § 87(2)(b) told Sgt. Grant that he could not tell him to shut up in his own home, and that he did not have probable cause to come into his house anyway. § 87(2)(b) states that he never became loud, never shouted, since he did not want to escalate the incident. Sgt. Grant cursed as well, and § 87(2)(b) asked him to watch his language in front of his son. § 87(2)(b) is a deacon, and raised his son in the church.) § 87(2)(b) said, "You know I can sue you?" (since he broke down the front door and chased him without probable cause). Sgt. Grant replied, "I don't care, I've been sued before." Sgt. Grant disappeared one more time, then returned again. PO Sneider (who had been 'calm and collected' during the whole incident) stood § 87(2)(b) up and removed his handcuffs. PO Sneider told him 'You're lucky.' § 87(2)(b) replied, "How am I lucky? You broke down my door, came into my house to harass me, scare my son, make him nervous." § 87(2)(b) asked again why he was originally called to the car. He never got an answer. As the officers were leaving, § 87(2)(b) asked Sgt. Grant what his name was. He said, 'Sgt. Bragnon [silent g].' As the officers were descending the stairs, § 87(2)(b) said to them, "Look what y'all did to my apartment...the door is knocked down, the first door is knocked down." One of the officers replied, "It's not that bad, you can fix it." He also added that he could file a report. § 87(2)(b) replied, "For what reason should I be fixing it? You broke it down." § 87(2)(b) did not get the plate numbers on the car, but he remembers it as a dark gray, tinted-window, late-model Chevy Impala (2000 model, maybe). § 87(2)(b) surveyed the apartment after the officers had left. The bedroom was in disarray, the bed and dresser were moved. Everything was thrown out of his closet.

Results of Investigation

Civilian Testimony

§ 87(2)(b) a § 87(2)(b) and § 87(2)(b)'s son, was interviewed at the CCRB on 12/13/01 (enc. 8a-c), and stated the following. On 11/18/01, at approximately 11:55pm, § 87(2)(b) had been sleeping for about 15 minutes in his father's bedroom (he was on punishment, and could not leave the bedroom. His father had gone to walk his friends to the train station.) § 87(2)(b) radio was on low level. § 87(2)(b) heard voices, and thought that his father was having an argument with next-door neighbors. He heard a door make a 'boom-boom' sound. His father came in the bedroom (leaving the bedroom door open) and told him, 'Call the cops. Call the cops. Somebody's trying to rob me.' Still half-asleep and dazed, and still in bed, § 87(2)(b) wondered what was happening. About a minute later, he heard individuals identifying themselves as police officers, and one officer whom he later recognized as Sgt. Grant instructing 'Come out with your hands up.' As the bedroom door was open, § 87(2)(b) could see flashlights moving around. § 87(2)(b) exited the bedroom first. § 87(2)(b) was asked who else was in the apartment, and he responded that his son was. He asked if anyone else, or a dog, was in the apartment, but § 87(2)(b) answered in the negative. § 87(2)(b) exited his bedroom into the hallway. Sgt. Grant and PO Sneider were in the hallway, shields hanging on chest. Sgt. Grant was in front, closer to § 87(2)(b) while PO Sneider was closer to the kitchen, where the only light was coming from the hallway. Sgt. Grant was holding a black gun with both hands at waist level, pointing somewhat away from § 87(2)(b). PO Sneider held a flashlight and was shining it down the hallway. Sgt. Grant told § 87(2)(b) "don't make a fucking move" and then told him to "come out . . . come sit on the floor." He sat down in front of his father, facing away from him, who was next to the sink on the kitchen floor. PO Sneider stood behind § 87(2)(b). § 87(2)(b) was not handcuffed. Sgt. Grant (his gun now holstered on right hip) proceeded to search the apartment; § 87(2)(b) witnessed Sgt. Grant go to the bedroom first, then the closet between the bedroom and kitchen. During this time, § 87(2)(b) and PO Sneider were talking (Sgt. Grant, not in view, would intermittently interject certain comments from other side of apartment). § 87(2)(b) said that he was walking back from the store, had been walking his friends to the train station, and had only had a pack of cookies and his keys. 'You're fucking lying. I know you had a gun.' § 87(2)(b) repeated that he had a pack of cookies and keys in his hand, and couldn't open the door. Sgt. Grant repeated, "I know you're lying, you put the gun somewhere, you probably threw it out the window." Sgt. Grant told § 87(2)(b) to 'shut up' at one point. PO Sneider told § 87(2)(b) to 'be quiet' but never cursed at him. PO Sneider did not talk to § 87(2)(b). § 87(2)(b) did not curse at him or threaten him. He did not curse at or threaten § 87(2)(b) though Sgt. Grant did both.

After about fifteen minutes, Sgt. Grant, from the bedroom, called § 87(2)(b) into the bedroom (he said, 'Young man, come here.' § 87(2)(b) sat on the bed and, while continuing to search § 87(2)(b) remembers that Sgt. Grant was going through dresser drawers when he entered the room), Sgt. Grant asked him questions. He asked where his father came first when he entered the apartment. § 87(2)(b) answered that he did not know, as it was dark and he was sleeping. Sgt. Grant said that he could not have been sleeping, as he had the radio on. § 87(2)(b) answered that he likes to go to sleep with the radio on. Sgt. Grant asked him (more directly) where his father put the gun. § 87(2)(b) answered that he did not know, that his father did not have a gun. Sgt. Grant asked § 87(2)(b) "You want to play fucking dumb? You don't want to save yourself? Well if I find a gun, I'm gonna arrest you and him. Where's the gun?" § 87(2)(b) repeated that there was no gun. "All right, so if I find a gun we'll lock you up too." Sgt. Grant then told § 87(2)(b) to go back to the kitchen. He complied and sat back down on the kitchen floor. § 87(2)(b) spent approximately five minutes in the bedroom with Sgt. Grant, during which Sgt. Grant cursed approximately three times, using only the word 'fuck' or 'fucking.' § 87(2)(b) never cursed or yelled at Sgt. Grant. Sgt. Grant did not make physical contact with § 87(2)(b) in the bedroom.

When § 87(2)(b) returned to the kitchen, § 87(2)(b) asked him what Sgt. Grant had told him. § 87(2)(b) was 'frustrated' and 'upset' so he didn't answer. Sgt. Grant said that he would call 10 officers and bring in dogs to search the apartment, and if they found the gun he would lock up both father and son. Sgt. Grant and § 87(2)(b) went back and forth about where the gun was. One half hour after § 87(2)(b) returned to the kitchen, Sgt. Grant said that his father was lucky. § 87(2)(b) was told to stand up, and PO Sneider undid the handcuffs. § 87(2)(b) asked Sgt. Grant his name, and he said either Sgt. 'Branden' or 'Bragden.' § 87(2)(b) did not ask PO Sneider his name, as he was 'already halfway out the door.'

Officer Testimony

Sgt. Ischaler Grant

Sgt. Grant, a § 87(2)(b) black male, was interviewed at the CCRB on 1/23/02 (enc. 9a-f), and stated the following. At approximately 11:40pm on 11/18/01, Sgt. Grant was driving unmarked vehicle #231 Chevy Lumina, he and PO Sneider in plainclothes. Traveling east on Fulton St., as he approached Eastern Parkway (about a quarter of the block away), he observed from about 15 feet a male black in dark clothing, between 5'10" and 6'2" (later identified as § 87(2)(b) walking westbound, in opposite direction. The lighting was 'fairly decent, not dark—regular street lighting.' At first glance, he strongly resembled a wanted suspect in the 73rd, § 87(2)(b) wanted for a shooting. § 87(2)(b) is listed as 5'10", 145lbs. Sgt. Grant, who had an array of the most wanted persons in the 73rd with him, said, "That's § 87(2)(b). He told PO Sneider, "I think that's one of my guys [referring to his stack of photos of wanted persons]." He made eye contact with § 87(2)(b) whose actions and demeanor were 'normal.' He decided to put the car in reverse, to back up and take a second look at the man. By this time, § 87(2)(b) had crossed the street to the north side, the driver side of the car. Sgt. Grant said, about 10 or 15 feet from § 87(2)(b) "Sir, excuse me, can I have a quick word with you, please?" At this point, he still believed that the man was § 87(2)(b) the wanted individual. § 87(2)(b)'s eyes got really wide and, without saying a word, he took off running. This elevated Sgt. Grant's suspicion that it was indeed § 87(2)(b). § 87(2)(b) ran behind a van for a few seconds, out of Sgt. Grant's view, who was still in the motor vehicle. Behind the van, § 87(2)(b) fumbled around somewhere in his waistband, 'digging in.' He popped out from behind the van, running, with what appeared to be a handgun in his right hand. Still driving in reverse (he drove a total of about 5 car lengths in reverse), Sgt. Grant observed the man running diagonally across the wide sidewalk towards a door in between two store fronts, another two car lengths west.

At that point, Sgt. Grant jumped out of the car to chase him on foot. § 87(2)(b) got to the door, and appeared to be trying to open the door with a key, the gun in one of his hands. This was the last time Sgt. Grant saw the gun, as after that § 87(2)(b)'s back was turned to him. § 87(2)(b) kept looking back in a nervous manner as Sgt. Grant approached. § 87(2)(b) then removed the key and began to use his shoulder to bang in the door. He hit the door three times and the door fell off the hinge, and he propped it up behind him. Sgt. Grant pushed the first door out of the way, and assumes that § 87(2)(b) banged in the second door and ran up the stairs. Sgt. Grant, PO Sneider behind him, yelled "'Police. Stop. Don't move. Freeze. Police.' You know, all that bullshit." Sgt. Grant does not remember if § 87(2)(b) kicked in the apartment door or if it was open, but § 87(2)(b) ran into the apartment out of Sgt. Grant's view. As Sgt. Grant was going up the stairs slowly (as § 87(2)(b) now had a tactical advantage over him), he saw § 87(2)(b) make a left into what he believes was a bedroom. He continued to yell, "Police, come out." Sgt. Grant, and PO Sneider behind him, got to the top of the stairs. § 87(2)(b) was now out of his view, the apartment door open. Fumbling sounds came from the room, and Sgt. Grant figured that he was going out the window, maybe. Sgt. Grant did not know if § 87(2)(b) lived there or not, and since he kicked in two doors, it did not look like he did. Though it was dark, there was enough light coming from the living room that neither officer used a flashlight. Scared to go into the apartment and to the bedroom, Sgt. Grant yelled, "Come out. Police. Freeze. Come out with your hands up." § 87(2)(b) stayed in the room for approximately four minutes; the officers were outside, at the front door, for that period of time. Sgt. Grant states that he did not radio for help since, primarily, he did not know the address of the building he was in. In addition, he did not want to distract himself by getting on the radio. There was no discussion between him and PO Sneider. Sgt. Grant does not know what he would have done if § 87(2)(b) had not come out.

His gun drawn, Sgt. Grant saw § 87(2)(b) finally come out. Sgt. Grant pointed his gun at § 87(2)(b) but does not know if PO Sneider had his gun pointed, as he was behind him. § 87(2)(b) had his hands in the air and, wallet in hand, told the officers, "I thought you guys were going to rob me, all I had was my wallet." Sgt. Grant states he is 100% sure that § 87(2)(b) did not have a wallet in his hand outside, since he saw a gun in his hand. § 87(2)(b) said, "This is my house, what the fuck are you doing?" Sgt. Grant said, "Sir, just give me a second, please." He holstered his gun, frisked and then handcuffed § 87(2)(b) and put him on the kitchen floor. He went into the bedroom, and poked his head around to make sure there was no one in the bedroom. He did not draw his gun again, and PO Sneider did not draw his gun, either. There was a 16 or 17-year old, later identified as § 87(2)(b) who appeared to have been sleeping, but was now awake. Sgt. Grant asked him if he knew the man who had run into his room. He answered that it was his father. Sgt. Grant asked him if he saw where his father put the gun. § 87(2)(b) stated that he had been sleeping, but that he did see his father fumbling around the closet. He stated that he wanted to talk to his father, so if he wouldn't mind, he'd like him to go to the kitchen as well. § 87(2)(b) sat on the kitchen floor next to his father. Sgt. Grant did not

frisk § 87(2)(b) as he was wearing shorts and a t-shirt. Sgt. Grant remained in the bedroom to look for the gun. The room was ‘a total mess.’ Sgt. Grant thought to himself, ‘Oh my God, it’s going to take me forever to find this gun.’ He did a ‘ cursory search,’ looking under the mattress, and under a few clothes. He looked at the back window and saw that the window was open. He then concluded that § 87(2)(b) probably threw the gun out that window. So he decided to see ‘if anything disarrayed.’ He opened a dresser drawer, and then saw that it was so stuffed that § 87(2)(b) could not have opened it, put the gun inside, and closed it again. “I realized that it was going to be fruitless to find whatever he hid.” It was hot, he was sweating in his jacket, he believed it would take forever to find the gun, that he would have to tear the apartment apart. So he weighed his options: “investing that much time into searching the apartment for this gun and even if I do find the gun, DA’s office is probably going to say, ‘Well, it’s a misdemeanor, how do you know he threw that gun?’ so I said it probably doesn’t make sense for me to tear the apartment apart to find this gun. I then decided to wrap up the investigation, under the belief, number one, that he probably threw the gun out the window.” Sgt. Grant states that, normally, he would have gone to the backyard for the gun. “The problem with Fulton St. is that it is a row of houses joined together. Absolutely no access to the backyard. I then decided that a further search would be fruitless, and I decided to wrap up the investigation.” He was in the bedroom for four or five minutes. PO Sneider never went to the bedroom with Sgt. Grant.

Concerning the limited nature of his search of the apartment, Sgt. Grant references his many years in police work and his experience with the District Attorney’s office as reasons for not continuing the search (re: the futility of evidence found in alleyways). He repeated that, even if he had found the gun, nothing would have come of it with prosecutors. “That was the consideration. It wasn’t the fact that, well, I don’t think he had a gun. He had a gun, I saw him with that gun. There was no mistaking about that.” After being asked specifically by the investigator, Sgt. Grant added that he did ask § 87(2)(b) to come to the room with him, just to ask him again where his father was when he entered the room and he may have again asked him if he knew where his father put the gun. He never cursed at him, nor did he threaten to arrest him if he found the gun.

Sgt. Grant did explain to § 87(2)(b) the reason the officers attempted to stop him. He did tell § 87(2)(b) that he would bring a dog and search the whole apartment, and that everyone would be subject to search. But he never threatened the son with anything. “I was bluffing the guy: I said, ‘Sir, we saw you with the gun in your hand. I know you have the gun. Just tell us where the gun is, so we don’t have to get everyone involved, and the dogs, we’d have to call the whole swat team.’” § 87(2)(b) repeated that he did not have a gun and was cursing at the officers. Sgt. Grant never raised his voice at § 87(2)(b) at any time, nor did he curse at him.

§ 87(2)(b) asked for Sgt. Grant’s name and shield number, which Sgt. Grant provided. “I never hide any information from anyone. If anyone wants my name they’ll always have it, they want my shield they’ll always have it.” § 87(2)(b) asked PO Sneider for his name and shield number, and was provided that as well. § 87(2)(b) stated to Sgt. Grant that he is “always getting chased by the cops all the time, I’m going to sue you guys, I’m going to make a lot of money off the city, I’m gonna tell them you kicked in my door.” Sgt. Grant told him, “Listen, chief: you kicked in your own door. You know that. If you want to sue or whatever, it’s your right, you got my information.” He also told § 87(2)(b) that “If you want to sue, you can sue. But you’re getting over on us.” In addition, Sgt. Grant states that he told § 87(2)(b) “If you had just stopped and gave me ID, this whole incident would not even have happened, we would not have gotten this far. “If he had just said, my name is so and so, and allowed me to talk to him for a few minutes,” none of this would have happened. The officers prepared UF-250s. Only § 87(2)(b) was frisked. Sgt. Grant states that § 87(2)(b) “was not frisked, he was not handcuffed, he was not searched, he was not abused.” The son was very cooperative. He was quiet: “whatever we asked him, he did. He didn’t give us lip, he didn’t curse at us. The father, on the other hand, was very combative. He was very uncooperative, he was cursing at us, he was making claims—I’m just gonna say that you guys did this, you guys did that.” Sgt. Grant told him, “Sir, I can’t control what you’re gonna do, I can only control what I did.” “I even showed him the picture of the guy who I thought we were looking for. He agreed that the guy looked like him but he said, ‘That’s not me.’” The total amount of time of the whole encounter, from first spotting § 87(2)(b) to leaving his residence, was between 15-20 minutes.

PO Steven Sneider

In his memo book, PO Sneider recorded the following statements by § 87(2)(b) “I thought you were going to rob me. This is all a misunderstanding.” “I was scared. My place got burglarized last week, and they knocked my doors down to break in.” “My landlord’s gonna kill me, she just fixed the front door for

\$600.00.” “I just don’t need any trouble with the police. I have to go to family court to get custody of my son.” “As far as I’m concerned, it’s on you [to Sgt. Grant].”

PO Sneider, a § 87(2)(b) old white male, was interviewed at the CCRB on 1/28/02 (enc. 10a-g) and stated the following. On 11/18/01, the officers were driving east on Fulton approaching the intersection with Eastern Parkway. Sgt. Grant directed PO Sneider’s attention to a man on their left. Sgt. Grant stated to PO Sneider that he recognized the man from wanted posters (off of which Sgt. Grant ‘occasionally’ picks perpetrators up). PO Sneider saw a tall black male with a hat, a dark hooded sweatshirt, a dark jacket, greenish pants, and boots on. The lighting was ‘pretty good.’ The man had fully crossed the street to their left and was walking west. Sgt. Grant called to the individual “something to the effect of” “Police [sounding more like ‘Please’], partner, can I get a word with you?” The man, later identified as § 87(2)(b) slowed down his walk and made eye contact with them, facing them at a slant. He appeared nervous, somewhat scared, and sped up his walk again. Sgt. Grant called out to him a second time as § 87(2)(b) then ran onto the sidewalk, behind some cars. Sgt. Grant backed the car up as PO Sneider watched § 87(2)(b) run. There were cars behind them, so PO Sneider had to watch these cars while keeping his eye on § 87(2)(b) ran out from behind the cars—not making any movements out of the ordinary for someone running—to the building line and ran to a door, which PO Sneider thought was a church’s door (there’s a church next door). PO Sneider did not see keys, or anything else, in § 87(2)(b) s hands. His back to the officers, he pulled at the doorknob with both hands, and could not open the door. So he hit the door with his shoulder, the door fell, he stepped in the doorway and tried to put the door back up. As he was trying to hit the door, Sgt. Grant and PO Sneider got out of the car and approached the re-inserted door. Sgt. Grant was on the right of the door, PO Sneider on the left. A few seconds after § 87(2)(b) had put the door back up, Sgt. Grant hit the door and it came down again. PO Sneider heard a ‘boom’ (which he attributes possibly to the apartment door upstairs getting banged open). At that time, Sgt. Grant told PO Sneider “Be careful, that guy has a gun.” They each drew their firearms and ‘carefully’ ran up the staircase—as § 87(2)(b) had a tactical advantage over them—to the landing outside the apartment door, which had been knocked off its hinges. Sgt. Grant on the left, PO Sneider on the right, they entered the doorway of the apartment, guns drawn. There was a light coming from the back of the apartment. In the doorway, Sgt. Grant called out “Police, Come out.” § 87(2)(b) from the back of the apartment, called, “I’m coming out. I’m coming out.” After about 45 seconds to a minute, he eventually stuck his hands out a door around the corner at the left and came out slowly. The officers moved to the kitchen, Sgt. Grant moving to the right to cover PO Sneider. Sgt. Grant directed § 87(2)(b) to put his hands against the wall opposite the door he came out of. § 87(2)(b) who had been in a hat, a jacket, a hooded sweatshirt and green jeans, no longer had the hat, the jacket or the sweatshirt anymore. PO Sneider holstered his weapon and took out a flashlight. Sgt. Grant covering him with gun still drawn, PO Sneider approached and handcuffed § 87(2)(b) PO Sneider frisked him and sat him on the floor of the kitchen. § 87(2)(b) stated that he lived in the apartment, PO Sneider asked him for ID, and § 87(2)(b) told him he had ID. Sgt. Grant, with gun still drawn, looked in the rest of the apartment, and § 87(2)(b) told him that his son was in the apartment. Some seconds passed, and Sgt. Grant returned with a teenager, § 87(2)(b) s son, and placed him on the floor next to § 87(2)(b) but not handcuffed—he was not frisked, as he was in basketball shorts and a t-shirt or tank top, groggy. § 87(2)(b) at some point mentioned that his back hurt, so PO Sneider allowed him to adjust his seating position. § 87(2)(b) was agitated at first. Sgt. Grant told PO Sneider that he was going to go to a closet, as he thought § 87(2)(b) had hidden something there. § 87(2)(b) wanted to know what Sgt. Grant was looking for. PO Sneider told him that they would explain it to him in a bit, that they had things to do first. § 87(2)(b) told him that he had been afraid that they were going to rob him, that the place had been burglarized the week before. He said that he didn’t want any trouble with the police, as he was trying to get custody of his son. He had calmed down. § 87(2)(b) told him that he did not know that Sgt. Grant was a police officer. PO Sneider understood, but told him that, if it was he instead who had addressed him, all he had to do was stop. PO Sneider explained to § 87(2)(b) that what came after the initial questioning seemed very suspicious: it did not seem that § 87(2)(b) lived there, it seemed that he had just knocked in the door to a church, not a residence. His actions seemed desperate. Sgt. Grant ran after him, and told PO Sneider that he had a gun, “and I have no reason not to believe my partner, either.” § 87(2)(b) repeated that he had not heard them identify themselves as police, and had been afraid of the men. He never cursed at PO Sneider, nor at Sgt. Grant. Both PO Sneider and Sgt. Grant had to raise their voices at § 87(2)(b) in the beginning.

After about five minutes, Sgt. Grant came back to the kitchen and asked to speak with § 87(2)(b) s son, § 87(2)(b) They went down the hallway far enough that neither PO Sneider nor § 87(2)(b) could hear what they were talking about. This made § 87(2)(b) angry again, as he felt that his son had nothing to do with any of this. After about thirty seconds, Sgt. Grant brought § 87(2)(b) back, and whispered to PO Sneider that

§ 87(2)(b) told him that his father had been near the window, then near the closet. He repeated that he knew § 87(2)(b) had a gun, and that it had to be in there. So Sgt. Grant went back to the bedroom to investigate those two areas, for another two or three minutes. He returned again to the kitchen, and PO Sneider went down to the RMP to get Sgt. Grant's clipboard and their memo books. He also looked at the wanted photo of § 87(2)(b) the man whom Sgt. Grant believed § 87(2)(b) resembled. PO Sneider went back upstairs, wrote down § 87(2)(b)'s and § 87(2)(b)'s information, then went back downstairs to the car and filled out the UF-250s, and did a warrant check, which was negative. He went back upstairs again, and told Sgt. Grant that he had done the paperwork and that the warrant check had come back negative. Sgt. Grant had been in a conversation with § 87(2)(b) who was agitated, about why they had stopped him. § 87(2)(b) seemed especially affected by his son's involvement in the whole incident. Sgt. Grant was explaining to § 87(2)(b) that "if you're a criminal or caught up in bad things and bring them into your apartment, your son could be arrested, you could get your son in trouble." PO Sneider removed the handcuffs from § 87(2)(b) who told Sgt. Grant "It's all on you." He asked Sgt. Grant his name, to which he replied, "Sgt. Grant." The officers walked out of the apartment, and PO Sneider picked up the door a little and § 87(2)(b) took it from him and tried to put it back in place. The officers walked downstairs to the car, and drove back to the 73rd Precinct to finish up the report.

After the incident, PO Sneider asked Sgt. Grant, "You saw a gun, right?" Sgt. Grant was "absolutely adamant" that he saw a gun. § 87(2)(b) never mentioned what he had been carrying when walking down the street.

Police Department Documents

IAB conducted a brief investigation of the damaged property allegation. Det. Hugg of IAB stated that a sergeant from Group 34 interviewed § 87(2)(b) who stated that he ran from the officers because he did not know they were officers. He stated that, while they broke down his building door, he broke down his own apartment door. As such, IAB closed its own investigation, and referred the rest of the case to the CCRB.

The 73rd Precinct provided the UF-250 Stop and Frisk Reports for § 87(2)(b) and § 87(2)(b) filed by PO Sneider, reviewed by Sgt. Grant (enc. 14a-b). Written on § 87(2)(b)'s UF-250 in the 'Remarks made by person stopped' is "I thought you were robbing me" and "This is all a misunderstanding." Circumstantial reasons listed are: observations by officer; violent crime suspected, and his resemblance to § 87(2)(b). Noted under 'Suspect's Actions' are 'furtive movements'; 'Refusal to comply with officer's directions'; 'Changing direction at the sight of officer'; 'actions indicative of engaging in violent crimes.' It is detailed that § 87(2)(b) "kicked in door to apt / Suspect had what appeared to be a black firearm in right hand." § 87(2)(b) UF-250 reiterates much of this information on § 87(2)(b). The UF-18 Accident Report—City Involved (enc. 15a) described the property damage as "Front door off hinges/ Door to apt. off." The narrative reads, "Officers in pursuit of armed suspect who fled into building. Suspect also resembled person wanted by 73PDU. One § 87(2)(b) NYSID #§ 87(2)(b) DOB § 87(2)(b). Suspect kicked in doors to apt/building to allude [sic] police. cursory investigation net negative results. Due to apartment being in disarray. Suspect claimed he's going to make money city." Sgt. Grant provided the pocket copy of the "73rd Precinct Most Wanted As Of 10/31/01" poster (enc. 12a).

DMV Documents

§ 87(2)(b)'s most recent arrest photograph was not on file, but his DMV photo (enc. 13b) was available and obtained. § 87(2)(b)'s DMV photo (enc. 13a) was also obtained.

Additional Investigative Actions

There indeed is a bodega at the corner identified by § 87(2)(b) and members of the family that owns it confirmed that it is open daily until at least midnight.

§ 87(2)(b) was photographed from in front of the building and from the approximate location that § 87(2)(b) was when he and the officers first observed each other (enc. 11a).

CCRB History of Sgt. Grant and PO Sneider

Neither Sgt. Grant nor PO Sneider has had substantiated charges against him.

§ 87(2)(b)

§ 87(2)(b)

At the time of his interview, § 87(2)(b) stated that he did not plan to file a civil suit against the city.

Conclusions and Recommendations

Officer Identification

Sgt. Grant and PO Sneider were identified as subject officers in this case by their testimony, and by the paperwork they filed—the UF-250 for § 87(2)(b) and § 87(2)(b) and the Accident Report City Involved. § 87(2)(b)s and § 87(2)(b) descriptions of the two officers and their testimony confirm this identification.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g), § 87(2)(b)

[REDACTED]

§ 87(2)(g)

Summary of Undisputed Facts

The following is not in dispute. Sgt. Grant and PO Sneider observed § 87(2)(b) walking at t/p/o. Sgt. Grant tried to get his attention, but § 87(2)(b) continued to walk away. The officers exited their vehicle and began to follow him. He reached his apartment first, and went into his bedroom, where his son was sleeping. His building's front door was knocked off of its hinges, and he himself broke his apartment door. The officers, guns drawn, caught up and entered the apartment. Sgt. Grant called out that they were the police, and to come out. § 87(2)(b) came out, was handcuffed and placed on the kitchen floor. He was asked if anyone else was home; he answered that his son § 87(2)(b) was. Sgt. Grant had § 87(2)(b) exit the bedroom and sit, not handcuffed, on the kitchen floor next to his father. Sgt. Grant then proceeded to search the apartment, he insisted, for a gun. He asked § 87(2)(b) where the gun was, and told him he could be arrested if the gun was found. § 87(2)(b) insisted that there was no gun. Soon after, he called for § 87(2)(b) to come back in the bedroom, where he tried to glean information as to the whereabouts of his father's alleged gun. § 87(2)(b) returned to the kitchen. At some point, § 87(2)(b) provided his identification to PO Sneider, who filled out paperwork and ran a warrant check. Some more time passed, and Sgt. Grant returned to the kitchen, where he told § 87(2)(b) that he believed he had a gun, but that he was lucky and would be free to go. § 87(2)(b) asked Sgt. Grant for his name, a name was provided, and § 87(2)(b) told Sgt. Grant that the officers were responsible for the broken door. The officers then left.

The nature of the evolving stop and legal issues thereof.

As it is difficult to divide this incident into distinctly analyzable steps of escalation—in hindsight, let alone at the time of the incident—this discussion will at times touch upon multiple periods of the incident concurrently, combining relevant legal criteria from Kamins' *Search and Seizure* (enc. 1a-rr) where necessary. Overall, however, effort has been made to partition and simplify the evolving encounter.

For purposes of this investigation, the encounter must be fleshed out. The following is the encounter as seen from Sgt. Grant's point of view, and the relevant legal precedent needed to properly analyze this case. Following Sgt. Grant's testimony, his initial call out to § 87(2)(b) was an exercise of his common law right of inquiry. § 87(2)(b)'s resemblance to § 87(2)(b) gave Sgt. Grant what Kamins refers to as an 'objective, credible reason' to interfere with his progress down Fulton Street (Kamins, p. 104). Whether he said, "Hey you, come here" or "Sir, excuse me, can I have a quick word with you, please?", this type of statement is viewed by courts as a "general, non-threatening" one (107). Even if the officer lawfully requests information, a civilian can legally *not* respond. According to Kamins, "This does not, however, permit further action by the police, though they may observe the civilian unobtrusively" (112). Indeed, if an officer has the right to request information, he can then follow a suspect into a building, or even into an unoccupied apartment (108). Of course, even if this initial request for information is justified, courts scrutinize the ensuing conduct of the police to determine whether it is justified by the facts as they develop (110).

§ 87(2)(g)

Once physical control of § 87(2)(b) was established, the stop was technically executed. Following a lawful stop, a frisk is justified, as is the drawing of an officer's weapon (145). Conversely, a frisk is illegal if

the stop is illegal. The most logical basis for a frisk after a stop is the suspicion that a suspect is armed and dangerous. § 87(2)(g)

Once custody of § 87(2)(b) was attained, there took place what may be classified as a ‘temporary investigative detention,’ in which § 87(2)(b) was handcuffed in his own apartment and his son was held in custody as well (167). What was being investigated, however, sheds serious doubt on Sgt. Grant’s choices. Sgt. Grant’s investigation consisted merely of conducting what was, by his own admission, an evidentiary search for the alleged firearm. In discussing this stage of the encounter, it is important to backtrack slightly and discuss the special circumstance of *hot pursuit*. Following Kamins, a suspect may not thwart an otherwise proper arrest, set in motion in a public place, by escaping into his residence (200). This rule holds, in this case, only if there were grounds for the arrest in the first place (which will be discussed below). Incident to a hot pursuit, a ‘protective sweep’ of a residence is justified to insure officers’ safety (201). Even so, an officer can only investigate areas large enough to hide a person, or any ‘grabbable areas’ for weapons; this “may be no broader than to protect the police officer from the perceived danger” (201). This ‘protective sweep’ has also been upheld for non-arrest situations. Linked to the ‘protective sweep’ is of course, all rules concerning ‘plain view’ evidentiary discoveries. Conversely, courts will deem a search invalid if it is motivated only by a desire to search for evidence. With regard to the ‘protective sweep,’ it must be noted that § 87(2)(b) was in handcuffs and monitored by a police officer.

§ 87(2)(g)

§ 87(2)(g)

Allegation A: Sgt. Ischaler Grant drew his gun.

Allegation B: PO Steven Sneider drew his gun.

It is clear that Sgt. Grant and PO Sneider drew their weapons as they exited their vehicle or shortly thereafter. As discussed above, it is understandable and justified for officers to draw their weapons when they fear for their safety. However, in this case it is important to note that the stop itself, which precipitated the guns being drawn, is found to have been improper. The nature of this stop made it necessary for Sgt. Grant and PO Sneider to fear for their safety, and draw their weapons.

§ 87(2)(g)

Allegation C: Officers damaged § 87(2)(b) s property at § 87(2)(b)

This allegation refers to § 87(2)(b) s allegation that the officers—and not he—broke down the front door of his building. As he did not identify which officer did so, or if both, which officer did what damage, this allegation is not being pled directly against either officer.

§ 87(2)(g)

§ 87(2)(g)

Allegation D: Sgt. Ischaler Grant entered § 87(2)(b) 2nd Floor.

As discussed in the legal overview section, entry into a suspect's apartment during 'hot pursuit' is justified. This applies to arrest as well as certain non-arrest situations. § 87(2)(g)

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Allegation E: Sgt. Ischaler Grant stopped and questioned § 87(2)(b)

Allegation F: Sgt. Ischaler Grant detained § 87(2)(b)

Sgt. Grant stated that he knows the 73rd Precinct's Most Wanted well—he claimed to keep a letter-size copy of the poster in his clipboard—and that he believed he saw § 87(2)(b) when he first spotted § 87(2)(b).

§ 87(2)(g)

The same poster that Sgt. Grant cited (enc. 12a) shows, written under § 87(2)(b) photograph, that he is § 87(2)(b). § 87(2)(b) is 6'6" and 220lb. Sgt. Grant has been on the force for 11 years, and was a Street Crime sergeant at the time. What § 87(2)(b) and § 87(2)(b) share is what they share with many other members of the Bedford-Stuyvesant/Bushwick/Brownsville area: they are middle-aged black men with goatees. In fact, Sgt. Grant himself—at 5'11" and 160lbs—is a much closer pedigree match to § 87(2)(b) than § 87(2)(b) is.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation G: Sgt. Ischaler Grant searched § 87(2)(b) 2nd Floor.

§ 87(2)(b) and § 87(2)(b) clearly stated that Sgt. Grant performed more than a plain view search of the apartment. While they did not personally observe Sgt. Grant search through drawers, through the closet, and so on, they stated that they could hear it. They also both testified that, after the officers left, these areas

were in total disarray—§ 87(2)(b) said that the bed and dresser were moved, and that everything in his closet had been taken out. Sgt. Grant himself admitted that in the bedroom he looked under the mattress, under some clothes, and in at least one dresser drawer § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation H: Sgt. Ischaler Grant spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Grant cursed liberally during his interaction with him. § 87(2)(b) who is a deacon and raised his son “in the church,” took special offense to the sergeant’s use of profanity in front of his son. In fact, PO Sneider stated in his interview that what § 87(2)(b) seemed most agitated about was that his son was in the middle of it all. § 87(2)(b) s son, § 87(2)(b) corroborated this allegation of profanity. Sgt. Grant denied that he cursed during this stressful encounter, yet he cursed multiple times during his CCRB interview. PO Sneider denied that Sgt. Grant cursed as well.

§ 87(2)(g)

Allegation I: Sgt. Ischaler Grant spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that, when Sgt. Grant called him to the bedroom, he used the word “fuck” or “fucking” about three times, all in a threatening manner. § 87(2)(b) is a § 87(2)(g)

§ 87(2)(g)

Allegation J: Sgt. Ischaler Grant threatened to arrest § 87(2)(b) and § 87(2)(b)

It is very likely that Sgt. Grant threatened to arrest § 87(2)(b) for possessing a gun. § 87(2)(b) and § 87(2)(b) are consistent on this allegation, and Sgt. Grant and PO Sneider in essence corroborate it as well. While in theory such a threat may be considered justified as merely an explanatory statement or an effective compliance technique, in this case there seems little reason to support such an argument § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that Sgt. Grant asked him to go in the living room and then tried to make him tell him where his father put the gun. In doing this, he told § 87(2)(b) that he had to tell him, because if he did not, and a gun was found, he would go to jail as well. Sgt. Grant himself denied that he threatened § 87(2)(b) with arrest. § 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: